

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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In re:

ORDER

LIBOR-Based Financial Instruments
Antitrust Litigation.

11 MD 2262 (NRB)

This Document Applies to:

11 CV 2613 (NRB)

Exchange-Based Plaintiff Action

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Before the Court is the defendants' motion to compel Metzler Investment GmbH ("Metzler") to produce transaction data regarding all of its LIBOR-linked instruments held during the alleged class period (ECF No. 1997), Exchange-Based plaintiffs' response (ECF No. 2044), and defendants' reply (ECF No. 2081). At the outset, we reject the argument that the application was untimely.

Metzler chose to bring suit without specifying that it was only suing on behalf of six of its funds even though it has the exclusive authority to sue on behalf of its 300-plus funds.¹ Under these circumstances, it is not unreasonable for the defendants to be suspicious of the selection process and to speculate that many of the other constituent funds, and even perhaps the funds in aggregate, did not experience a net injury.


¹ As the funds' assignment of their claims to Metzler was unnecessary, the fact of the assignment is irrelevant.

While we do not now rule on its import, should discovery support that assumption it would raise an issue as to whether Metzler is an adequate class representative.

Accordingly, the requested data is relevant to the defendants' opposition to the plaintiffs' motion for class certification and is ordered to be produced forthwith. As plaintiffs represented that its attorneys are in possession of this data, we expect no issues with compliance with this order. Furthermore, the defendants have one week from the date of receipt of the production to file a supplemental opposition brief of no more than four pages. Given that the plaintiffs' reply brief remains due on August 4, 2017, plaintiffs have an incentive to make this production promptly to enable them to respond in the reply brief to the defendants' arguments.

SO ORDERED.

Dated: New York, New York
July 19, 2017


NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE